



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/079,785	05/15/98	GOODWIN R	2884 H

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HM22/0615

EXAMINER
SPECTOR, L

ART UNIT	PAPER NUMBER
1646	

DATE MAILED: 06/15/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

---The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address---

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 27-39 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 27-39 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Part III: Detailed Office Action

Restriction Requirement:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 27-30, drawn to a delivery method using CD30-L conjugate, classified in class 424, subclass 193.1.
- II. Claim 31, drawn to treatment with CD30-L, classified in class 12.
- III. Claims 32-38, drawn to CD-30-L oligomers, classified in class 435, subclass 69.7.
- IV. Claim 39, drawn to a purified binding fragment of CD30-L, classified in class 530, subclass 350.

The inventions are distinct, each from the other because:

The method of Invention I is distinct from the method of Invention II because the two methods have different purposes (diagnosis or delivery of a therapeutic vs. treatment with a soluble CD30-L (unconjugated)), and the agents being used in the two methods are physically and functionally distinct and require divergent searches.

The products of Invention III are separate and distinct from the methods of Inventions I and II as follows:

The products of Invention III are separate and distinct from the method of Invention I because the conjugates used in Invention I do not appear to encompass oligomers. Accordingly, as the products are neither made by nor used in the methods, the two are separate and distinct.

Inventions III and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process can be used with any soluble CD30-L, such as a monomer, and the products may be used in a materially different process, such as the *in vitro* isolation of CD30.

The product of Invention IV is separate and distinct from the method of Invention I wherein the product may be neither made by nor used in the method.

The products of Inventions III and IV are separate and distinct because they have different primary and secondary structures as well as distinct functions and properties, and require divergent searches.

Inventions IV and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product may be used in *in vitro* assays of CD30, or as a reagent in the purification of CD30..

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Advisory Information:

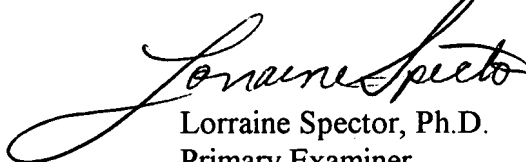
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Lorraine M. Spector, whose telephone number is (703) 308-1793. Dr. Spector can normally be reached Monday through Friday, 8:00 A.M. to 4:30 P.M.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Paula Hutzell, Ph.D, can be reached at (703)308-4310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist at telephone number (703) 308-0196.

Certain papers related to this application may be submitted to Group 1800 by facsimile transmission. Papers should be faxed to Group 1800 via the PTO Fax Center located in Crystal Mall 1 (CM1). The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 C.F.R. § 1.6(d)). NOTE: If Applicant *does* submit a paper by fax, the original signed copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing of duplicate papers in the Office.

Official papers filed by fax should be directed to (703) 305-4242. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294. Please advise the Examiner at the telephone number above when an informal fax is being transmitted.


Lorraine Spector, Ph.D.
Primary Examiner

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6/14/99